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P-3906-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: DONALD C. JOHNSON
JEFFREY SPILFOGEL

FOR: A SEAMLESS BRASSIERE SHOULDER STRAP

SERIAL NO.: 09/780,320

FILED: February 12, 2001

EXAMINER: JOHN CALVERT

REPLY

Hon. Commissioner of Patents
and Trademarks
Washington, DC 20231

Sir:

This is in Reply to the Office Action of 05/25/01.

Enclosed with this reply is a marked up version and clean copy of claim 1. The marked up version is intended to amend claim 1 as follows:

In line 4, delete "preliminarily" and "a";

In line 5, delete "similar";

In line 6, change "fibers" to "fibrous", and delete "construction";

In line 8, delete "preliminarily" and change "new" to "raw";

In line 10, insert a comma after "strips" and delete "correspondingly";

Delete entire line 11;

In line 12, delete ", and removed";

In line 13, delete "selvage" and in its place insert "presenting in superposed

relation said cut raw" and after "strips" insert "which are fused along a selected site together and

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removed by cutting along said site, whereby appearances of cut raw edges", ^{N/A} still in line 13 delete

"whereby said cut"; and

11/6 In line 14, delete "raw edges thereof without an inturned seam" and before "are" insert "of said upper, lower and intermediate strips".

In Office Action paragraph 2, reconsideration of the rejection of claim 1 under 35 U.S.C. 112, second paragraph is respectfully requested since, as amended, claim 1 does not use the term "preliminarily" in lines 4, 8 and 11, and the term "fibers construction" has been changed to "thermoplastic fibrous material".

The amendment to lines 12-14 recite the nature of a change occurring to the edges of the upper, lower and intermediate strips which are referred to in previous lines 4, 8 and 11, making it unnecessary to use the term "preliminarily" since a change in something, in this case "edges", implies that before the change it is "preliminary".

It is believed the objection to claim 1 noted in Office Action paragraph 3 has been cured by the amendment to lines 8 and 13.

In Office Action paragraph 5, claim 1 has been rejected under 35 U.S.C. 102(b) as being anticipated by Hyams et al. (US 5,165,113). Reconsideration of this rejection is respectfully requested for the reasons which follow.

The text referred to by the examiner in the cited '113 patent at col. 1, lines 62-68 through col. 2, lines 1-26 merely state general objectives which not unsurprisingly are comfort and appearance in a brassiere shoulder strap, but are not anticipatory disclosure of the manner in which these objectives are achieved and now claimed by applicant. In fact, a full and fair reading of the '113 patent indicates otherwise. Comfort in the '113 patent is provided by the separately added pad 12 of Fig. 2.

In contrast, applicant has recognized that the finishing of the raw cut edges of the fabric assembly of the brassiere strap is the most significant source of discomfort and has achieved this required finishing step without turning under the edges (the technique used in the prior art and illustrated in Fig. 2), by fusing the fabric assembly at a selected site running along the raw cut edges and cutting off, and thereby removing, the raw cut edges by choosing as the location of the cut the site of the fusion. In a fused together condition, the assembly is cut through cleanly and the fabric, consisting of weft and warp yarns, does not exhibit any fraying. More particularly, as illustrated in Fig. 3 and explained at application page 5:

"In the construction of the shoulder strap 30, using as previously noted the known heat sealing and cutting technique common in plastic bag-manufacturing, the assembled superposed arrangement of upper, intermediate, and lower fabric strips 32, 34 and 42 are urged in a machine direction 52 in processing relation past a rotary fusing or welding means 54 and past a rotary cutting means 56, the former producing side weld lines 58, and the latter removing from the assembly the opposite selvages 48 at the site of the weld lines 58 which, in practice has been found to be free of fraying or any other fiber manifestation detracting from a neat finished appearance in a cut and seal line 60 at the side locations of the shoulder strap 30. The resulting approximately 1 inch wide brassiere shoulder strap 30 is thus without a telltale seam but also with finished side edges 60."

In continuing support of the '113 rejection the examiner next refers to the text at col. 4, lines 67-68 through col. 5, lines 1-4 which refers to bonding layers together by heat fusing. However, the bonding is at the interface of the pad to the upper and lower fabric plies, a sandwich designated 34 and illustrated in Fig. 4, as explained in col. 4 in lines 54-66 which precede line 67, of the text referred to by the examiner. The edges 18a and 20a of the top layer or ply 18 and bottom layer or ply 20 have unfinished appearances, having been cut to rough size, as noted at col. 5, line 5, thus adding nothing of a significant anticipatory nature to the text of columns 1 and 2.

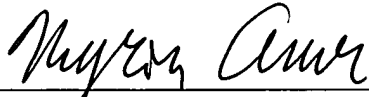
The adhesively secured together edges 18a and 20a of the layers 18 and 20 are die cut "leaving a predetermined amount of base portion 14 surrounding the pad portion 12" (col. 6, lines 18-34), but such a cut will not prevent fraying of the yarns of the layers 18, 20 at the precise location of the cut because what is needed to do so, and what is not there to do so, is the melted and hardened plastic of the heat fusion pressed into the interstices of the woven construction of the fabric layers 18, 20, a circumstance well understood by those versed in the art. See application page 3, second paragraph, explaining why the turned under selvage edge technique is required for edge finishing of brassiere straps.

For the foregoing reasons, the rejection of claim 1 based on the '113 patent should be withdrawn.

Favorable reconsideration of this application is respectfully requested.

Respectfully,

MYRON AMER, P.C.
Attorney for Applicant

By: 
Myron Amer
Reg. No. 18,650

114 Old Country Road
Suite 310
Mineola, NY 11501
(516) 742-5290

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--1. A seamless shoulder strap of a brassiere comprising a superposed cooperating pair of an upper and of a lower elongated strip of fabric construction material in facing relation to each other bounding therebetween a correspondingly elongated internal compartment, each said strip [preliminarily] having [a] cut raw edges therealong delimiting therebetween a [similar] selected first transverse dimension, an intermediate strip of thermoplastic [fibers] fibrous [construction] material having an interposed operative position disposed lengthwise in said internal compartment, said intermediate strip [preliminarily] having cut [new] raw edges therealong delimiting therebetween a selected transverse dimension slightly in excess of said first transverse dimension of said upper and lower fabric strips, [correspondingly preliminarily causing laterally outwardly extending opposite selvage edges due to] said size differences of said first and second transverse dimensions[, and removed] presenting in superposed relation said cut raw [selvage] edges of said upper, lower and intermediate fabric strips which are fused along a selected site together and removed by cutting along said site, whereby appearances of cut raw edges of said upper, lower and intermediate strips [whereby said cut raw edges thereof without an intumed seam] are obviated in the resulting shoulder strap.--(first amendment)

--1. A seamless shoulder strap of a brassiere comprising a superposed cooperating pair of an upper and of a lower elongated strip of fabric construction material in facing relation to each other bounding therebetween a correspondingly elongated internal compartment, each said strip having cut raw edges therealong delimiting therebetween a selected first transverse dimension, an intermediate strip of thermoplastic fibrous material having an interposed operative position disposed lengthwise in said internal compartment, said intermediate strip having cut raw edges therealong delimiting therebetween a selected transverse dimension slightly in excess of said first transverse dimension of said upper and lower fabric strips, said size differences of said first and second transverse dimensions presenting in superposed relation said cut raw edges of said upper, lower and intermediate fabric strips which are fused along a selected site together and removed by cutting along said site, whereby appearances of cut raw edges of said upper, lower and intermediate strips are obviated in the resulting shoulder strap.--(first amendment)